SENTENCING DISPARITIES BASED ON COUNTY LEVEL DISADVANTAGE

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by

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ABSTRACT

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Research has shown that sentencing disparities are occurring within the criminal justice system based on the personal characteristics of individuals. Specifically, individuals of varying races/ethnicities, genders, and ages are receiving significantly different outcomes when they have similar legal characteristics. This outcome has been explained by judges' sentencing decisions being influenced by the personal attributes and the perceived threat that individuals pose. Another attribute that has been shown to influence judges' sentencing decisions and increase perceived threat, but is under researched and characterized by mixed results, is the level of concentrated disadvantage within the individual's county. To address this under researched area, this study focuses on how the social threat associated with both the individual's race/ethnicity and their county's level of concentrated disadvantage and minority composition impact their sentencing outcome, through a multilevel model.

KEY WORDS: Sentencing disparities, Social threat, Concentrated disadvantage, Racial composition, Ethnic composition, Hierarchical linear modeling

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TABLE OF CONTENTS

Page

LIST OF TABLES

CHAPTER I

Introduction

When it comes to criminal sentencing, court officials are commonly given guidelines to follow in order to make their sentencing decision. These guidelines are in place to ensure fairness within the courts and they can vary from state to state. But court officials can also be given a wide array of discretion by the system to decide what to charge individuals with, what type of punishments they receive, and how long their sentences will be. Due to their ability to act upon their own authority, sentencing disparities within the system are nearly unavoidable; yet, court officials surely have the potential to mitigate these disparities. But as multiple studies have found, this is not always the case and today there are many disparities that exist within the criminal justice system based on offender characteristics (The Sentencing Project, 2018; Nellis, 2016; Starr, 2012). Specifically, it has been found that young, black, males received harsher sentences compared to all other groups (Steffensmeier, Ulmer, & Kramer, 1998).

When it becomes clear that sentencing disparities are based on an individual's characteristics, it raises questions about the fairness within the system. And more specifically, how much of the discretion given to court officials is the cause of these disparities and what is influencing a judge's decision-making process. High levels of disparities within sentencing also raises the concern of how much court officials' personal biases of both an individual and their personal characteristics influence their sentencing decisions. Although there are guidelines in place to ensure fairness, research has found that there are multiple legal and extralegal factors that significantly impact judges' decision-making process (Armstrong & Rodriguez, 2005; Ulmer, 1997).

Ultimately, this results in inconsistent sentencing treatment among individuals, which creates unwarranted sentencing disparities, where individuals with similar legal case factors but varying extralegal factors, receive significantly different sentencing outcomes.

Although legal factors, such as the offense type, severity, and criminal history, are properly used within sentencing and are also the most significant predictors of sentencing outcomes (Ulmer, 1997), they do not explain the entirety of factors that can influence a judge's decision-making process. Extralegal factors, which are commonly factors like personal characteristics or attributes of the offender, have also been shown to influence a judge's sentencing decision and explain some of the variation within sentencing. Extralegal factors that commonly have been found to be significant within a majority of research on sentencing disparities are gender, age, and race/ethnicity (Steffensmeier, Ulmer, & Kramer, 1998; Wooldredge, 2007; Rodriguez, 2007; Spohn & Beichner, 2000; Steffensmeier & Demuth, 2000; Steffensmeier, Kramer, & Streifel, 1993).

Another extralegal factor that has been found to influence a court official's decision-making process, but has not been researched as often, is the contextual condition of the area that the individual resides in. This includes the level of concentrated disadvantage within their community (Wooldredge, 2007). Areas that face higher levels of disadvantage commonly have poor social conditions and weak informal social controls, which create disorganization. It has been suggested that individuals who are characterized as residing in areas that have high levels of concentrated disadvantage can be perceived as threatening (Sampson & Laub, 1993), which ultimately can negatively influence their sentencing outcome. Multiple studies have found that individuals from areas with higher levels of concentrated disadvantage received harsher sentencing

outcomes compared to those who faced less disadvantage (Wooldredge, 2007; Rodriguez, 2013; Wooldredge & Thistlethwaite, 2004; Sampson & Laub, 1993). These studies show the importance of incorporating contextual level measures into sentencing research, because factors such as the level of concentrated disadvantage can help explain some of the variation in sentencing disparities between individuals.

When court officials begin to rely on these extralegal factors to influence their decision, it can create unwarranted sentencing disparities among individuals. This happens when offenders with legal similarities, such as the same crime, offense severity, and similar criminal history, receive varying sentences. This in part can be credited to judges looking at extralegal factors to help reach their sentencing decision, where judges assess the individual's personal attributes and even contextual factors and the threat associated with those characteristics (Ulmer, 1997).

Although a vast amount of research has indicated a relationship between personal attributes of offenders impacting their sentencing outcomes, only a handful incorporate concentrated disadvantage as a measure. Additionally, within those studies that include disadvantage, some of them measure it poorly. Sampson and his colleagues have been front runners within the research on disadvantage and have put forward ways to measure it and what important variables should be included within the index variable (1997; 2009). This commonly includes incorporating four to six contextual factors into one index variable, which is able to efficiently measure the complexities of concentrated disadvantage. Some studies claim to measure concentrated disadvantage but only include a couple variables are not always able to fully capture the effects of concentrated

disadvantage, as Sampson and his colleagues have put forward, which shows the importance of using a strong measure.

Plan of Study

The objective of this study is to do a multilevel analysis using Hierarchical Linear Modeling (HLM) in order to analyze both individual level characteristics and county level characteristics to determine which variables are significantly impacting sentence lengths. The main individual level characteristic within question is the individual's race or ethnicity. The county level characteristics focus on the level of concentrated disadvantage within the county, as well as the racial/ethnic composition of the county. All of these factors are suggested to increase the perceived threat that the individual poses to their community or of reoffending, which then results in increased social control through harsher sentencing outcomes (Blalock, 1967; Sampson & Laub, 1993).

This study adds multiple important contributions to the body of literature on sentencing disparities. First, the disadvantage measure within the study includes four variables within the index, as put forward by Sampson and colleagues (1997), which enables this study to better capture the complexities of concentrated disadvantage. This is in comparison to prior studies that have used poor measures of concentrated disadvantage and only included a few variables within their disadvantage index. By including more measures, this study can provide a better measure of disadvantage and contribute to the body of knowledge.

This study also focuses on four states within the southwest region of the United States that have not all been addressed within this type of research. This enables the expansion of the generalizability of research in this area. By including multiple states, the

study is also able to address the impact that sentencing guidelines have on sentence length. Two of the states within the analysis have indeterminate sentencing guidelines, which allows for more judicial discretion, and two states have determinate guidelines, which allows for less judicial discretion. This is a variable that has not yet been incorporated into a sentencing disparities study, which makes this study unique.

Additionally, due to the study having independent variables at both the individual level and contextual level, the study uses a multilevel model (HLM). This enables the study to not only capture how the individual level variables at both levels are impacting sentence lengths, but also capture the interactions that are occurring between the individual level and county level variables and measure how that interaction impacts the individual's sentence length.

This research focuses on the idea that the individual's race/ethnicity, and both their county's racial/ethnic composition and level of concentrated disadvantage, can all be perceived as forms of social threat. These various levels of threat are then incorporated into the judge's decision-making process and used to influence their sentencing decision, which ultimately creates unwarranted sentencing disparities. There is not a sufficient amount of research available that incorporates these three variables to see how they affect sentencing disparities, especially while focusing on multilevel interactions. Of the research that does include these variables, the findings are mixed and inconsistent, which shows the importance of continued research.

This study is guided by focal concerns perspective, which is used as an overall framework and not explicitly tested, where both racial threat and concentrated disadvantage are incorporated into the perspective. Focal concerns perspective suggests

that judicial decision making can be influenced by extralegal factors, such as personal characteristics, which are then incorporated into a judge's perceptual shorthand. Personal attributes are included when judges lack other applicable information on the cases, so they rely on extralegal factors to help influence their sentencing decision (Steffensmeier, et. al., 1998). Both racial threat and concentrated disadvantage are associated with the social threat that specific individuals or groups of people pose to the elites or majority. The three ideas interplay when the threat that is felt based off of racial/ethnic and disadvantage factors are incorporated into a judge's perceptual shorthand and influence their sentencing decision, creating unwarranted sentencing disparities.

Based off of the theoretical framework, this study argues that judges incorporate the race/ethnicity of the offender, the racial/ethnic composition of their county, and the level of concentrated disadvantage of their county, into their perceptual shorthand as extralegal factors as a way to analyze the three focal concerns. When an individual is perceived as more threatening based off of those factors and the stereotypes associated with them, they receive significantly harsher sentences, in the form of longer sentences.

CHAPTER II

Literature Review

Focal Concerns Perspective & Sentencing

When judges are given a vast amount of discretion within criminal sentencing, it leaves room for them to stereotype individuals based on extralegal factors and personal characteristics. This in turn can then influence their sentencing decisions and create unwarranted sentencing disparities. This relationship between personal attributes of individuals influencing sentencing outcomes can be explained by the focal concerns perspective, which is commonly used as a framework to explain judicial decision making and how it can result in sentencing disparities.

The terminology 'focal concerns' was first used by Miller (1958) to explain the patterns of concern that the higher class had, due to the subculture and values of the lower class. This term has since been expanded on by researchers to explain three concerns that influence criminal justice personnel's' decision making within the system (Steffensmeier, Kramer, & Streifel, 1993; Steffensmeier, Ulmer, & Kramer, 1998). The three concerns highlighted within the perspective focus on the blameworthiness of the offender, the need for community protection, and the practical implications and constraints of the court official's decision.

Steffensmeier and colleagues (1998) describe blameworthiness as assessing the culpability of the offender, the severity of their crime, and their criminal history. Court officials look at blameworthiness to gauge how deserving the individual is of punishment. They describe community protection as not only focusing on incapacitation and deterrence of the individual, but also the potential for reoffending and the danger the

individual poses to the public and their community. Practical implication and constraints are described as focusing on the individual's ability to serve their sentence, the impact it will have on their family and community, and also how the community will view the court based on the sentence they give or whether the individual reoffends. These three concerns are the basis of the perspective and have a complex interaction that influence court officials' sentencing decisions and are used as reasons or justifications for the sentencing outcomes that they impose on individuals (Hartley, Maddan, & Spohn, 2007; Harris, 2009).

Perceptual Shorthand

Within criminal sentencing, court officials are required to make decisions when they may lack important information or face time constraints. This can hinder their ability to efficiently assess the facts of the case and in turn can be a major downfall when it comes to attempting to predict an individuals' future behavior and the potential threat they pose to their community. Ultimately, this lack of information and time can lead court officials to incorporate personal attributes of the individuals to supplement the case information and to better inform their sentencing decisions. This is what Steffensmeier and colleagues (1998) refer to as perceptual shorthand.

Multiple researchers have suggested that personal attributes are incorporated into a court official's perceptual shorthand as a way to predict an individual's future behavior and their likelihood to recidivate (Hawkins, 1981). Specifically, Spohn and Beichner (2000) suggest that judges have access to detailed records of an individual's criminal history, but not enough information that can predict future behavior; therefore, they look at personal characteristics to aid their sentencing determination. Additionally, both

Johnson (2005) and Albonetti (1991) have suggested that when court officials lack information that can help them infer future actions, they must rely on stereotypes that link individuals to various offense characteristics in order to determine how dangerous and blameworthy they are. These patterned responses that judges develop would then influence their sentencing decisions and a reliance on these extralegal factors and stereotypes creates unwarranted sentencing disparities.

Overall, focal concerns perspective suggests that since judges often have to determine an appropriate sentence based off of little information and under time constraints, judges assess the three concerns based on personal characteristics and stereotypes of the individuals. Some of the most common individual attributes associated with research focusing on focal concerns are the individual's gender, race/ethnicity, and age (Hartley, 2014; Steffensmeier, Ulmer, & Kramer, 1998). Additional attributes that other researchers have suggested that judges rely on within focal concerns are the social class or the social groups to which the individual belongs, which can also be used to influence their decision when they have minimal legal information (Steffensmeier & Demuth, 2000; Steffensmeier, 1976; Carrol, 1978). For this reason, and based off of prior research, it is plausible to conclude that judges' decision-making for sentencing and the three focal concerns can be influenced by extralegal factors.

Research on Focal Concerns Perspective

There is a large body of research that analyzes sentencing disparities through focal concerns perspective and a handful of the studies interviewed court personnel and reviewed court transcripts to test it. Multiple studies found support for focal concerns in that court officials commonly used personal attributes of individuals to assess the various

concerns, which then influenced their sentencing decision. Specifically, Fontaine and Emily (1978) found in reviewing court transcripts that judges' sentencing decisions are influenced by stereotypes associated to the individual's personal characteristics and the specific social class that they belong to. They also found that judges may use these stereotypes to infer future behavior of individuals within those social groups, which leads to varying sentencing outcomes.

Multiple studies went a step further and interviewed court personnel, where they found similar results. Bridges and colleagues (1987) found that court officials admitted to advocating for varying sentences for different individuals solely based off of their personal characteristics and their associated stereotypes and they claimed that just by looking at an individual was a better tell as to if the individual was going to recidivate, compared to actually knowing the legal facts of the case. Additionally, multiple studies found through interviews that court officials readily use all three concerns within the perspective to assess the individual's reasons for offending, specifically focusing on their blameworthiness and community protection, through assessing the interconnectivity of individual characteristics and legal characteristics (Harris, 2009; Kramer & Ulmer, 1996; Steen, Engen, & Gainey, 2005).

It was also found that court officials used personal stereotypes to inform their sentencing decisions and projected those stereotypes into "behavioral expectations" as to if the individual was likely to be rehabilitated (Kramer & Ulmer, 1996, p. 98). These behavioral expectations based on personal characteristics were then used to influence their sentencing decision by assessing their level of dangerousness to the community, their level of blameworthiness, and how deserving they were of punishment.

Research that reviews court transcripts or that involves in depth interviews with court officials is able to specifically test focal concerns perspective because it is able to capture how court officials explicitly use the various concerns and personal attributes to reach sentencing decision. Court officials specifically commented on using personal attributes and stereotypes of individuals to evaluate the danger they pose to their community and their likelihood of reoffending, which supports the premise of focal concerns perspective (Kramer & Ulmer, 1996; Steen, Engen, & Gainey, 2005). But not all research that uses the perspective is able to specifically test it. Due to focal concerns focusing specifically on explaining judicial discretion and decision making, it is hard to test; therefore, most sentencing research that uses the perspective today, uses it more as a framework to guide the research idea and to help explain the overall findings and conclusions of the study, without explicitly testing the theory (Hartley, 2014; Lynch, 2019). When disparities within sentencing are found based on personal characteristics, scholars point to judicial discretion highlighted within focal concerns, in order to explain the results and suggest why there are disparities.

Steffensmeier, Kramer, and Streifel (1993) were some of the first to articulate todays more common version of focal concerns perspective, where they used it to explain sentencing disparities that were based on the individual's gender. Although the severity of the crime and the individual's criminal record were found to be the main factors that influenced a judge's sentencing decision, the gender of the individual was also found to be a significant predictor. Other studies found similar results and suggested that it was due to judges assessing personal attributes and stereotypes of individuals, which resulted

in some individuals being viewed as more blameworthy or dangerous compared to others, such as males relative to females (Spohn & Beichner, 2000; Spohn & Holleran, 2000).

Focal concerns has also been used to explain sentencing disparities that were based on the individual's race, gender, and age, in which Steffensmeier and colleagues (1998) found that judges' decisions were significantly influenced by these extralegal factors. This was apparent due to the finding that young, black, male offenders received the most severe sentencing outcomes, which has been supported by additional research (Johnson, 2005; Spohn & Holleran, 2000; Ulmer & Johnson, 2004). Ultimately, these studies have found that although legal factors are important, extralegal factors have also been found to play a significant role in sentencing outcomes.

Conclusion of Focal Concerns

Overall, focal concerns perspective suggests that judges make sentencing decisions when they lack information and sufficient time, which leads them to rely on personal attributes and stereotypes of individuals in order to analyze their blameworthiness, the danger they pose to their community, and the practical implications and constraints on the system. These personal attributes and stereotypes are then incorporated into their perceptual shorthand, which is used to evaluate the concerns and inform their sentencing decision. This process results in unwarranted sentencing disparities where individuals with differing personal attributes, but similar legal factors, receive significantly different sentencing outcomes.

Social Threat & Sentencing

Sentencing disparities can also be linked to the idea of social threat, where those who are viewed as threatening receive harsher treatment by the criminal justice system

through harsher sentencing practices. Social threat has been used to describe the threat that the white majority can feel from different groups that they believe to be "dangerous" or "threatening" towards them and their dominance. Specifically, those of different cultures and different social backgrounds can be viewed as challenging to the status quo; therefore, the majority feels the need impose control over them. Not only can this threat be perceived in the form of violence but can also be in regard to the threat felt when it comes to accessing and using economic and social resources (Brown & Warner, 1992; Eitle, D'Alessio, & Stolzenberg, 2002).

When a group poses a threat, the dominant groups responds with increased social control, which commonly comes in the form of the criminal justice system. Irwin (1985) argues that the system is used to contain those of low social status who are deemed as dangerous or threatening toward the hegemony of the elite class. Additional scholars have suggested that minorities and the poor underclass are the groups that are commonly deemed as threatening, both socially and economically, and are in need of social control (Irwin, 1985; Sampson & Laub, 1993; Brown & Warner, 1992; Liska, 1992). Research on the subject, which is discussed below, has found support for the idea that groups who are viewed as threatening receiving harsher sentences.

Racial Threat Theory & Sentencing

Social threat is a broader topic that can be narrowed down to the threat perceived based off of the race or ethnicity of an individual, which is also a major focus within the research on sentencing disparities. Racial threat theory is commonly used within sentencing to explain why individuals of racial or ethnic minorities are receiving harsher sentences compared to their white counterparts. Blalock (1967) was one of the first to

describe the premise behind racial threat theory, which focuses on the threat that the white majority feel due to an increasing minority population within an area. He also addressed discrimination directed at minorities that originated from threat-oriented beliefs, where negative characteristics of black individuals were exaggerated in order to gain white support for increased social control for minorities. Ultimately, this results in minority populations facing increased discrimination and poor treatment because of a perceived threat that the majority believes they pose to society. This perceived threat can be felt in the form of violence, but it goes further and can also be a response to the threat that is felt within economic and social spheres.

Racial threat theory also hypothesizes that as the concentration of minorities in the area increases, so does the perceived threat, with the belief that a greater minority population poses an increased threat (Britt, 2000). The threat associated with racial composition is suggested to decline when the minority population reaches the threshold and they become the superior group, based on population composition in that area (Blalock, 1998; Britt, 2000). Due to this increasing level of perceived threat associated with a growing minority population, it is suggested that the dominant class will increase social control tactics in order to better control the growing minority group (Blalock, 1967). This increase in social control tactics can be formalized through the criminal justice system; thus, when there are greater concentrations of racial or ethnic minorities it may create an increased threat to society that results in harsher sentences being given to minority offenders (Caravelis, Chiricos, & Bales, 2011).

While social threat is broader and can encompass many ideas, racial threat theory narrows in on racial/ethnic ideologies and how minorities are treated more poorly by the

system because the perceived threat they pose. This is based solely off of their race/ethnicity and the cultural stereotypes associated with it, which ties racial threat theory with focal concerns perspective. Within focal concerns, race/ethnicity can be a specific attribute that judges use to influence their sentencing decision when they lack other case information. Due to the perceived threat associated with racial/ethnic minorities, judges can incorporate the associated stereotypes into their perceptual shorthand and try to gauge the individual's likelihood of reoffending and the need for community protection. Ultimately, this creates an opportunity for sentencing disparities to arise based on the perceived threat associated with the race or ethnicity of the individual.

Research on Racial Threat & Racial Composition

Research on racial threat has found that racial/ethnic composition can produce two differing effects on sentencing outcomes for individuals: targeted effects and diffused effects. The idea of targeted effects focuses on how only minority offenders receive harsher sentencing outcomes in areas where there is a higher minority composition and associated threat; ultimately creating greater racial/ethnic disparities within sentencing outcomes (Zane, 2018). The idea of diffused effects focuses on how the threat associated with a greater minority composition impacts sentencing outcomes for all individuals, no matter their race or ethnicity (Zane, 2018).

Of the research that has looked at the targeted impacts of racial threat, it has commonly found a relationship between minority population composition and harsher sentencing outcomes for minorities. Specifically, multiple studies have found that imprisonment and detention rates for black offenders increased in areas that had a higher

composition of minority residents (Armstrong & Rodriguez, 2005; Secret & Johnson, 1997; Wang & Mears, 2010; Bontrager, Bales, & Chiricos, 2005). Other research has found that this is also the case for Latino offenders, specifically that they received harsher sentences in areas where there was a greater minority population (Ulmer & Johnson, 2004; Johnson, 2005; Wang & Mears, 2010). These studies suggested that both black and Latino offenders were sentenced harsher as a result of an increased perceived threat that they posed, in part due to the stereotypes that were tied to their minority group and its larger composition within the community. Additionally, harsher sentences were also explained as a result of the expectation that is put on the criminal justice system by the majority to apply stricter forms of social control over minority offenders, as a means to better control them (Britt, 2000).

Other studies found support for the diffused effect of racial threat. Myers and Talarico (1987) found that imprisonment rates increased for both nonwhite and white offenders in areas with a higher minority composition, regardless of the individual's race or ethnicity. This was supported in an additional study that found as the Hispanic population increased, so did the likelihood of harsher sentencing outcomes for all defendants (Zane, 2018). These results suggest that a greater composition of minorities and an increased level of perceived threat can impact all individuals and results in harsher sentencing outcomes, regardless of the individual's race or ethnicity.

In an additional study, Bridges and colleagues (1987) tested racial threat theory through interviewing court officials, where they were able to get direct answers as to why minorities were sentenced differently. They found that counties with larger populations of minorities sentenced them at increased rates, compared to other counties that had smaller

populations of minorities. In interviews where court personnel were asked about sentencing minority offenders, they specifically addressed minorities as the county crime problem and spoke of adopting informal policies in order to solely confront the threat that minorities posed. This result was explained as court officials punishing minority offenders more harshly because they were seen as dangerous and in need of control; therefore, more deserving of harsher sentences (Bridges & Steen, 1998). This shows a direct link between racial threat, social control, and sentencing disparities.

Overall, scholarly work on racial threat is characterized by mixed results. Various studies found that sentencing outcomes were not significantly different for any population (i.e. whites, blacks, or Hispanics) in locations where the minority populations were high (Chen, 2013; Kautt, 2002; Fearn, 2005; Weidner, Frase, & Pardoe, 2004; Feldmeyer & Ulmer, 2011; Wu & D'Angelo, 2014). While there is a fair amount of research focused on racial threat, the findings to date remain inconsistent.

Research on Racial Threat, Focal Concerns, & the Individual's Race/Ethnicity

Racial threat can also focus on the individual level and be tied into focal concerns, which suggests that judges base sentencing decisions off of the personal attributes of individuals and associated stereotypes, such as their race or ethnicity. The perceived threat that society and the judge feel by an individual of a minority race can influence their sentencing outcome and be incorporated into their perceptual shorthand. It is then used in sentencing when other applicable information that helps to determine the individual's likelihood of reoffending or the danger they pose to their community is lacking. This is where judges incorporate the threat and stereotypes associated with specific races/ethnicities into their sentencing decisions.

In a study done by Steffensmeier and colleagues (1998) they interviewed court officials, who commented on their perceptions of offenders. They found that black individuals were more likely to be perceived as a danger to the community and less likely to be able to be rehabilitated. This perception of racial threat by court officials resulted in sentencing disparities, in which black offenders were most likely to receive the most severe sentences (Steffensmeier, et. al., 1998). This finding was also supported by additional research that determined that nonwhite individuals faced harsher treatment within the sentencing process (Armstrong & Rodriguez, 2005; Secret & Johnson, 1997; Rodriguez, 2007; Bontrager, Bales, & Chiricos, 2005; Britt, 2000; Spohn & Holleran, 2000; Wu, Cernkovich, & Dunn, 1997; Kramer & Ulmer, 1996). More specifically, within Spohn and Beichner's (2000) study they found that the effect that race/ethnicity had on sentencing was conditioned by gender. They found that only male racial minorities received harsher outcomes, where female offenders, no matter their race, received more lenient outcomes.

Racial threat theory has also been broadened to explain disparities faced by Latino individuals. Due to Latino immigration being a more current issue, Steffensmeier and Demuth (2000) suggest that Latinos are more disadvantaged and culturally threatening compared to blacks. They found that Latino defendants received harsher sentences compared to both black and white defendants, which suggests that their disparities align with the premises of focal concerns and racial threat theory, due to how stereotypes of minority groups and the associated threat, influence judicial decision making. This shows that harsher sentencing was a form of social control in response to the perceived threat Latino offenders posed.

The ideas associated with racial threat theory also ties well into the community protection aspect within focal concerns. It can be assumed that if an individual is perceived as threatening, then that perception could also be related to how the judge views them in regard to the risk they pose to their community. Due to minorities being perceived as dangerous and threatening, judges may feel that minority offenders are unable to change from their criminal ways; therefore, they impose harsher sentences on them in order to better protect their communities (Caravelis, Chiricos, & Bales, 2011). This was also supported by Ulmer and Johnson (2004), where they found that when judges were assessing the individual's threat and the danger they posed to society, their sentencing decision was significantly influenced based off of the racial or ethnic perceptions associated with the individuals, resulting in minorities facing harsher sentencing outcomes.

Conclusion on Racial Threat

Racial threat theory has a long history within sentencing disparities research. When minorities are perceived as threatening or dangerous, whether it be in a criminal way or in association to economic or social resources, it impacts how they are treated by society through an increase in social control by the criminal justice system. The research shows that racial and ethnic minorities face sentencing disparities both when the minority composition of the area is high at the contextual level, and at the individual level when just the individual's race/ethnicity is taken into account. Ultimately, minorities being viewed as a threat can result in sentencing disparities.

Concentrated Disadvantage & Sentencing

Not only can society feel threatened by others because of their race or ethnicity, the level of disadvantage within their community can also be perceived as a form of social threat. The study of disadvantage has its roots in the Chicago School and within social disorganization theory. This theory hypothesizes that weak social structures and poor social characteristics within communities leads to increased rates of disorganization and ultimately crime. Individuals who live in these types of areas can face increased hardships as a result of the disorganization.

Concentrated disadvantage is a term that is also used to describe disorganization within communities. Areas characterized as disadvantaged commonly face high rates of poverty, racial heterogeneity, residential instability, unemployment, female headed households, and high rates of reliance on public assistance (Sampson & Graif, 2009; Shaw & McKay, 1969). When communities face these characteristics, it creates disorganization with neighborhoods and causes a breakdown in the levels of informal social control, which causes increased crime rates (Sampson & Graif, 2009; Becker, 2016). Additionally, these same areas commonly lack collective efficacy because of the disorganization and without collective efficacy communities are unable to self-regulate and control misconduct on their own. When there is a lack of cooperation between residents of a community and self-regulation is lacking, there is less informal social control, which also results in increased crime rates (Becker, 2016; Sampson & Wilson, 1995).

These characteristics together that create disorganization and crime within communities also create a sense of social threat to the upper class, where those from

disadvantaged communities are viewed as threatening because of their low social status (Sampson & Laub, 1993; Irwin, 1985). As with racial threat, the threat can be in the form of violence or access to or use of economic and social resources. This perceived threat, coupled with the lack of informal social control within the communities is then made up for within formal social control through the criminal justice system (Feld, 1991). The system response can involve increased incapacitation through harsher sentencing practices and through this, social control then becomes aimed at those from disadvantaged communities.

These disadvantaged communities have a complex interplay of many factors, which can create issues at the community level and also at the individual level for those residing in disadvantaged communities. These individuals can be viewed and treated as a threat to the majority. Sampson and Laub (1993) used the term "underclass" to describe individuals who face high levels of concentrated disadvantage, and argued that those individuals are perceived as threatening to not only the elites but to "mainstream America" (p. 289). Others argued that this group is perceived as threatening because they can be unpredictable and need to be controlled and repressed because of the danger that they pose (Pina-Sanchez & Grech, 2018).

Sampson and Laub (1993) also found that "counties characterized by racial inequality and a large concentration of the "underclass" (i.e., minorities, poverty, female-headed families, welfare) are more likely than other counties to be perceived as containing offensive and threatening populations and, as a result, are subject to increased social control" (p. 293). Not only are these communities as a whole considered disadvantaged, but its members then become perceived as threatening because they reside

in a disadvantaged area, which can result in harsher criminal justice sanctions. This is where individuals face further burdens of being from areas characterized with high levels of disadvantage.

In regard to concentrated disadvantage and sentencing, researchers have suggested that court officials are aware of the social context that offenders come from, such as the level of concentrated disadvantage within the area that they reside in, and they may use that information to influence their sentencing decisions (Britt, 2000; Karp & Clear, 2000). This harsher punishment for disadvantaged individuals can be a judge's way of stereotyping these individuals from disadvantaged areas as more likely to recidivate, or they may believe that by removing them from a disadvantaged area, they are helping reduce crime from that area (Wooldredge & Thistlethwaite, 2004). These ideas can be incorporated into their perceptual shorthand that is used when they lack other applicable information, but when they are aware of the personal characteristics of individuals and the disadvantaged areas they come from. If judges do incorporate the individual's community disadvantage into their sentencing decision, it would create greater sentencing disparities for offenders from disadvantaged areas.

Concentrated Disadvantage & Focal Concerns

When judges are influenced by the stereotypes and the perceived threat that's associated with individuals from areas of disadvantage and include it into their perceptual shorthand, it can result in unfavorable sentencing outcomes. This shows the link between concentrated disadvantage and focal concerns perspective. Multiple studies that have looked this relationship have found that those from areas with higher rates of concentrated disadvantage receive significantly harsher sentencing outcomes

(Wooldredge & Thistlethwaite, 2004; Kautt, 2002; Wooldredge, 2007; Rodriguez, 2013). A majority of the reasons that the studies have given for these outcomes were centered on the community protection aspect within focal concerns.

Multiple studies have suggested that judges look at the potential threat the individual poses to their community and their likelihood of reoffending, which is then used to influence the judge's sentencing decision when they lack other applicable information (Wooldredge & Thistlethwaite, 2004; Hester & Sevigny, 2016; Wooldredge, 2007). This outcome has been explained as court officials assessing an individual's potential to reoffend based off of the type of neighborhood they come from (Wooldredge, 2007). Ultimately, those coming from more disadvantaged areas would be considered a higher risk and pose an increased threat to their community.

Other studies have concluded that disadvantaged individuals are sentenced harsher as a way to reduce community crime. It has been suggested that courts believe that if they remove criminogenic individuals from crime ridden areas, it will help reduce crime within disadvantaged communities (Wooldredge & Thistlethwaite, 2004). This harsher sentencing of disadvantaged individuals can also be used to send a message to both the offender and their community that crime will not be tolerated (Kautt, 2002). Both aspects focus on how to better the community and result in disadvantaged individuals receiving unfavorable sentencing outcomes.

Not only can court officials use the criminal justice system as a way to reduce crime, but it can also be used to restore order within communities. Wooldredge and Thistlethwaite (2004) suggested that the harsher sentencing practices aimed at offenders from neighborhoods with higher levels of concentrated disadvantage may be the court

official's way of attempting to regain control of disadvantaged communities where informal social controls have been ineffective. When these communities are unable to self-regulate, due to broken down social institutions and a lack of collective efficacy, the courts can feel they may be helping the neighborhood by sentencing individuals from that area harsher, as a way to help the community or ensure future protection from crime.

This idea was also reinforced in Rodriguez's (2013) study where she claimed disadvantaged offenders were sentenced harsher as a result of judges wanting to protect communities. She suggested that court officials believe that individuals who reside in areas characterized as disadvantaged with high crime rates and weak social control, will be more likely to continue to commit crime and pose an increased threat to their community; therefore, the court officials see confinement as the most ideal option. Additionally, if the community perceives that there is a crime problem, they can place expectations on the system to deal with the crime in order to protect the community, which can also result in harsher sentences for those from disadvantage communities (Hester & Sevigny, 2016). This shows court officials making their decisions based off of their desire to protect communities and if they stereotype some offenders as more dangerous to their communities because they are from areas with higher levels of disadvantaged, it can result in sentencing disparities.

Research on Concentrated Disadvantage & Sentencing

A handful of other studies also found support for the relationship between levels of concentrated disadvantage and sentencing outcomes. Being from a disadvantaged community can be associated with negative stereotypes and also can cause the individual to be viewed as threatening, which can result in them receiving a harsher sentence

(Sampson & Laub, 1993). Additionally, an individual's social status is shaped in part by their community, which can lead to those from disadvantaged areas being negatively stereotyped (Wooldredge, 2007; Rodriguez, 2013). These attributes are then incorporated into judges' perceptual shorthands and results in the disadvantaged receiving more severe sentences.

Another study found that individuals from disadvantaged neighborhoods were less likely to have charges filed against them and be fully prosecuted, but when both of those things did occur, their outcome was more likely to result in conviction and them being sent to jail (Wooldredge & Thistlethwaite, 2004). This was compared to individuals from more advantaged areas, who were more likely to have charges filed against them and be fully prosecuted, but less likely to be convicted and sent to jail. This shows that the first part of the system favors those who are disadvantaged, but if they are prosecuted and transferred to the second half of the system, disadvantaged defendants face harsher consequences.

Additional studies have shown that concentrated disadvantage was a significant predictor of an individual receiving harsher sentencing outcomes (Rodriguez, 2010; Rodriguez, 2013; Sampson & Laub, 1993; Bontrager, Bales, & Chiricos, 2005; Wooldredge, 2007). The explanations given as to why disadvantaged individuals are sentenced harsher vary, but focus on the perceived social threat they pose and as a crime prevention technique in order to make communities safer.

Although there is support for the relationship between concentrated disadvantage and sentencing outcomes, the body of literature is overall mixed. Multiple studies found that disadvantage measures did not significantly impact sentencing outcomes (Britt,

2000; Wu, Cernkovich, & Dunn, 1997; Hester & Sevigny, 2014; Johnson, 2005; Rodriguez, 2007). An additional study found that disadvantage was not a consistent predictor of sentencing outcomes (Secret & Johnson, 1997).

Concentrated Disadvantage & Racial Threat

It is important to address the fact that minorities commonly reside in neighborhoods characterized as having high levels of concentrated disadvantage. Studies have found that between blacks and whites who are of the same low socioeconomic status, black individuals more commonly reside in areas characterized with higher levels of concentrated disadvantage and crime, compared to their white counterparts (Alba, Logan, & Bellair, 1994). Other scholars have suggested that poverty between individuals of varying races or ethnicities is very different in regard to the quality of neighborhoods that they live in; where poor whites commonly reside in areas that are both ecologically and economically different compared to where poor blacks live (Wilson, 1987). When minorities face more disadvantage within the areas they reside in compared to whites with the same socioeconomic status, it furthers the divide between races/ethnicities and exacerbates the overall disparities that minorities face.

When there is an increase in racial and ethnic diversity within communities, which is commonly referred to as racial heterogeneity, it can lead to increased levels of concentrated disadvantage. When a community's population is racially/ethnically diverse, there are fewer shared values and more cultural differences, which negatively affects social integration and informal social control (Feld, 1991). This increase in racial/ethnic composition also increases the level of perceived social threat within these communities.

This is an additional instance where the lack of informal social control can be made up with formal social control by the criminal system.

Due to minorities facing both perceived racial threat and social threat through their level of disadvantage, it can in turn make them even more vulnerable to facing high levels of disparities within sentencing (Rodriguez, 2013). This is due to them facing stereotypes associated with both their race/ethnicity and the level of concentrated disadvantage within their neighborhood. Additionally, it has been suggested that when communities are characterized with a large minority population and high levels of disadvantage, there is an increase in overall perceived threat which can lead to a social control response of harsher punishments (Pina-Sanchez & Grech, 2018). It is argued that these varying sentencing outcomes faced by those who are both disadvantaged and minorities is the courts way of using social control over those who have varying social and class characteristics (Pina-Sanchez & Grech, 2018). This illustrates a strong interplay that occurs between race and concentrated disadvantage that cannot be ignored, especially with how the two combined can increase an individual's level of perceived threat, which then can result in increased sentencing disparities.

Conclusion on Concentrated Disadvantage

Concentrated disadvantage is used to describe various characteristics within communities that create disorganization and breakdown the level of informal social control. The characteristics commonly used to measure focus on socioeconomic status, racial heterogeneity, residential instability, and family disorder (Sampson & Graif, 2009; Shaw & McKay, 1969). These factors harm the community and create disorganization, which increases crime and social problems the communities struggle to regulate.

Concentrated disadvantage can also have a negative impact on the individuals who reside in these disorganized communities. Research suggests that those individuals can be perceived as threatening and potentially dangerous due to their crime prone and disadvantaged environment, which results in them being stereotyped because of the level of concentrated disadvantage within their community (Wooldredge, 2007; Sampson & Laub, 1993). These stereotypes and perceived threat then are suggested to be incorporated into the judge's perceptual shorthand, which results in disadvantaged offenders receiving harsher sentences as a form of social control. Although the research on concentrated disadvantage and sentencing outcomes is mixed, scholars have addressed the importance of including disadvantage measures within studies because it is able to help explain some of the variation within sentencing outcomes (Armstrong & Rodriguez, 2005).

Conclusion of Literature Review

As the literature suggests, focal concerns perspective is used as a framework to explain sentencing disparities based on how an individual's personal attributes influence a judge's sentencing decision. When judges lack applicable case information and are under time constraints, they incorporate personal characteristics and stereotypes of the individuals into their perceptual shorthand to better determine the blameworthiness of the offender, the need for community protection, and the practical constraints and implications of their sentencing decision. These stereotypes are used to help a judge infer which individuals are more likely to reoffend or pose a threat to their community. When extralegal characteristics are incorporated into their decision, it can create unwarranted

sentencing disparities where offenders who have varying personal characteristics, but similar case characteristics, receive different sentences.

These personal characteristics commonly include the age and gender of the individual, but more importantly for this study, it also includes the race/ethnicity of the individual, the minority composition of their county, and level of concentrated disadvantage of their county. Judges use these factors to stereotype individuals and to also assess the level of threat they pose to society and this shows how both concentrated disadvantage and racial threat can be incorporated into focal concerns perspective. Both the race/ethnicity of an individual, the minority composition within their neighborhood, and their level of disadvantage can be perceived as a social threat, which can influence how a judge assesses the three concerns within the perspective.

The use of these stereotypes of minorities and the disadvantaged within a judge's perceptual shorthand ties well into the idea of community protection and the assessment of the likelihood of reoffending, which may be the ideas within focal concerns that have the most emphasis within this specific type of sentencing research. As the research suggests, individuals are sentenced differently based off of their race/ethnicity, the composition of minorities within their area, and level of concentrated disadvantage, which can all be seen as a form of threat. When they are viewed as threatening, they may be seen as more likely to reoffend, which in turn increases the level of danger they pose to their community, which offers an explanation as to why they are sentenced harsher. When judges have little additionally information, they can reach their decision on the likelihood of reoffending based on these stereotypes, which results in those sentencing disparities.

Research Linking All Three Ideas

There is research that specifically looks at the relationship between all three of these ideas and shows the complex interplay that race/ethnicity, concentrated disadvantage, and minority composition have within judicial decision making. Overall, the research is fairly mixed; where some studies find support for one variable but not the others. Specifically, Sampson and Laub (1993) found support for both race and concentrated disadvantage impacting sentencing outcomes and found an interaction between the two variables. They found that black juvenile's sentencing outcomes were impacted more by the level of concentrated disadvantage compared to white youths sentencing outcomes. They credited the difference to black males being viewed as more threatening. This suggests that while judges are incorporating the level of concentrated disadvantage within an individual's community into their sentencing decision, it has a more pronounced impact for black individuals compared to white individuals, although it does affect them both.

Rodriguez (2013) had similar findings, in that minorities were more likely to be sent to confinement, compared to their white counterparts. She also found that individuals who resided in higher levels of concentrated disadvantage were significantly more likely to be sent to confinement; but concentrated disadvantage was not a mediator within the relationship between race and confinement, as was found in the prior study.

Bontrager and colleagues (2005) found support for both concentrated disadvantage and race/ethnicity. They found that when levels of racial composition and concentrated disadvantage increased, black defendants convicted of violent crimes were sentenced harsher. Additionally, an increase in concentrated disadvantage was found to

increase the sentencing severity for Latino offenders for violent crimes as well. The researchers argued that the threat perceived from their minority status is augmented by the threat that derives from their disadvantaged status. This finding further illustrates the important interplay that occurs between race and concentrated disadvantage, showing that minorities residing in areas characterized with high levels of disadvantage commonly face harsher sentencing outcomes. Bontrager and colleagues (2005) went further to describe how minority threat alone may not be as big of an indicator, but when minorities are facing high levels of poverty, instability, or a dependency on welfare, the threat they pose drastically increases. This increased threat is then felt by judges and results in them sentencing individuals they deem threatening harsher.

But not all research that includes all of these components has found support. In Kautt's (2002) study, no support was found for either racial composition of an area or the level of disadvantage impacting individuals' sentencing outcomes. Johnson (2005) found support at the individual level for race/ethnicity in that white offenders were more likely to receive favorable sentencing outcomes compared to minorities and also found support at the aggregate level for minority composition. When the Latino population increased within an area, Latino individuals were more likely to receive severe sentences, and when the black population within an area increased the sentencing severity for black individuals also increased. But the same study found that the disadvantage measurement did not have a significant relationship with sentencing outcomes. Other studies also reached the same result where they found that race/ethnicity did significantly impact sentencing outcomes, with minorities receiving unfavorable sentences compared to

whites, but the level of disadvantage was not a significant predictor (Rodriguez, 2007; Wu, Cernkovich, & Dunn, 1997; Secret & Johnson, 1997; Hester & Sevigny, 2014).

Another study found the opposite results. Wooldredge (2007) found support for a significant relationship between concentrated disadvantage and sentencing outcomes, but did not find a significant relationship between race and sentencing outcomes. This shows that neighborhood disadvantage was a more significant indicator for harsher sentencing outcomes compared to the role that the race of the defendant played within this study. This finding was explained as judges considering the characteristics of the individual's neighborhood as more applicable in determining the likelihood that an offender will reoffend, compared to the individual's race or ethnicity.

Gaps in Prior Literature

It is evident that the research is mixed, which shows the importance of continued research on this subject in order to help shed light on whether individuals are receiving different sentencing outcomes based on racial or ethnic threat, or based on the threat that is associated with concentrated disadvantage. Prior research that measures concentrated disadvantage does not always include a strong measure for the variable. Sampson and his colleagues (1997; 2009) have put forward literature on how to measure concentrated disadvantage through an index variable, which includes four to six variables in order to capture the complexities of concentrated disadvantage. Some studies that measure concentrated disadvantage and did not find significance only included two or three variables within the disadvantage index (Rodriguez, 2007; Wu, Cernkovich, & Dunn, 1997; Secret & Johnson, 1997), but it can be difficult to fully measure disadvantage as Sampson and his colleagues have put forward with only a couple of variables in the

index. Therefore, to address this gap, this study uses four variables within the concentrated disadvantage index in order to efficiently capture the intricacies of concentrated disadvantage, as past studies have been unable to do.

Another gap in the prior literature is that research on this subject is focused on only a handful of states, which means their results may not be generalizable to greater areas. This shows the need and importance of continued research in order to determine if this relationship between extralegal factors and sentencing disparities are present in greater areas. To address this gap, the existing study looks at four states in the southwest region of the United States that have not all been addressed, in order to determine if sentencing disparities are occurring in this area.

By including multiple states, this study is also able to incorporate the type of sentencing guidelines of the state, which is a unique variable that has not been included in past research within this area of study. Two of the states within the study are determinate sentencing states, which have fixed sentence lengths and do not allow much discretion within the judge's sentencing decision, and the other two states are indeterminate sentencing states, which allot the judges a wide array of discretion to choose their sentence length based off of wide sentencing ranges (Lawrence, 2015). By including this measure of the state and type of sentencing guidelines, the study is able to capture the differences between the two types of sentencing guidelines and truly see how much impact the judicial discretion, in the form of indeterminate guidelines, can impact sentence lengths, which is a unique contribution of this study.

CHAPTER III

Methods

In order to address these gaps in the prior literature, this study uses Hierarchical Linear Modeling (HLM) in order to test the multilevel relationship between extralegal factors, both at the individual and county levels, and sentence lengths. The study focuses on four states, which have not all been addressed in prior literature, within the southwest region of the United States. The study also includes whether the state has determinate or indeterminate sentencing guidelines. Additionally, concentrated disadvantage is measured using four variables in order to capture the complexities of the concept of disadvantage. Another important factor is the study includes both race and ethnicity measurements at the individual and county level to measure racial and ethnic threat. Overall, the study is theoretically guided by focal concerns, which is not explicitly tested, and the idea of social threat, which are used to address which extralegal factors result in significantly longer sentence lengths for individuals.

Hypotheses

The following hypotheses were derived based off of the findings of prior research that has looked at the relationship both race/ethnicity and concentrated disadvantage have with sentencing outcomes. They were derived while also taking into account the theoretical framework that guides sentencing research and with the idea of social threat in mind. The first hypothesis focuses on the main individual level factor of race/ethnicity and the associated threat:

Hypothesis 1: Minority individuals will receive significantly longer sentence lengths.

The next three hypotheses focus on contextual factors at the county level and how they can be perceived as a form of social threat. While consistent with prior literature and the theoretical framework, the hypotheses consist of:

Hypothesis 2: Individuals who reside in counties with higher levels of concentrated disadvantage will have significantly longer sentence lengths.

Hypothesis 3: Individuals that reside in counties with a higher population of black residents will have significantly longer sentence lengths.

Hypothesis 4: Individuals that reside in counties with a higher population of Hispanic/Latino residents will have significantly longer sentence lengths.

While all prior hypotheses focus on singular variables, the theoretical framework and idea of social threat suggest a dual effect of the individual's race/ethnicity and their contextual factors having an interaction. This interaction would then impact their sentencing outcome. The multilevel analysis used allows for the interaction between the individual and county level variables to be tested. Thus, for the interaction hypotheses:

Hypothesis 5: Minority individuals sentenced in counties that have higher levels of concentrated disadvantage will receive significantly longer sentence lengths compared to minorities sentenced in areas with low levels of concentrated disadvantage.

Hypothesis 6: Minority individuals sentenced in counties that have a higher rate of racial or ethnic composition within the county will receive longer sentence lengths compared to minorities sentenced in areas with lower rates of racial or ethnic composition.

All of these hypotheses are assumed net of control factors, while also acknowledging that the legal factors of the case will most likely be significant and some

of the strongest predictors of sentence length variation. This assumption is based on prior research and suggests one of the most important factors judges are considering within the framework is the legal characteristics (Ulmer, 1997).

Data & Sample

In order to analyze both individual level information and county level factors, two datasets were utilized. The individual level information comes from the National Corrections Reporting Program (NCRP) and specifically focuses on individuals who were admitted to prison in 2015. This was also the year the NCRP begun to collect county data on where the offenders most recently resided in. Also, by selecting a specific year it also allows for the county level data to be combined with individual level data. The NCRP dataset is kept by the United States Department of Justice and compiles offender-level information on prisoner entry and release from correctional programs at a national level within the United States. At the first level within the study, the unit of analysis is the individual.

To analyze contextual level factors, data from the American Community Survey (ACS) were accessed from the Census. Contextual level characteristics of all counties in the United States were collected for the year 2015, with 5-year estimates, which also allows for the two datasets to be linked. The second level of the study uses counties as the unit of analysis, which allows for the comparisons of county level contextual characteristics between the four states.

Geographical Focus

The current study focuses on individuals and counties that reside within four states in the southwest region of the United States[1]. These states include Arizona, New Mexico, Oklahoma, and Texas. Within these states, two of them have determinate sentencing guidelines and two have indeterminate guidelines, which are guidelines that deal with the amount of discretion given to judicial officials. The inclusion of this variable allows for the comparison of this unique factor. Additionally, the focus on states in the southwest region allow for the inclusion of a higher percentage of Hispanic and Latino individuals, due to the larger non-white population within these states, which ensures a large sample size of Hispanic/Latino individuals.

Variables

The analysis focuses on 18,807 individuals who were sentenced to prison within the four states in the year 2015. Additionally, those individuals resided in a total of 216 counties, which is the sample size at the second level. The descriptive statistics of the variables used to test the hypotheses are reported later on in Table 2.

Dependent Variable

Sentencing research commonly focuses on two sentencing outcomes as the dependent variable: the sentence type (incarceration or not) and the length of the sentence if incarcerated. The data used for this study only includes individuals who have already been sent to prison and omits data on individuals who are given non-incarceration forms of sentences. Thus, the dependent variable analyzed within this study is sentence length.

[1] Southwest region as depicted by the Bureau of Economic Analysis (see Abadi, 2018).

This variable is a continuous variable that is measured in months and is capped at 470 months, which was derived by the United States Sentencing Commission in order to remove outliers that could interfere with the results (Pryor Jr., et al, 2018). This sentence length cap is consistent with prior research (Steffensmeier & Demuth, 2000; Johnson, Ulmer, & Kramer, 2008). Initial analysis showed that sentence length was positively skewed; thus, the logarithm was taken to transform it into a normal distribution, which is consistent with prior research (Feldmeyer & Ulmer, 2011; Wu & D'Angelo, 2014; Wooldredge, 2007).

Individual Level Independent Variables

Multiple individual level independent variables were included in the analysis and include legal and extralegal factors provided from the NCRP. For the extralegal variables, the race/ethnicity of the individual is measured by three dummy coded variables of black, Hispanic/Latino, and other race, where white is the reference category. The gender of the individual is used as a control variable and is dummy coded where female is the reference category, coded as 0, and male is coded as 1. The final extralegal variable that is also a control variable was the age of the individual upon admission to prison, which is continuous and measured in number of years.

Two legal factors are incorporated into the analysis as control variables. The first is the primary offense type and is measured using three dummy variables that are based on the Uniform Crime Report crime classifications. They include dichotomous measures of violent offense (=1), property offense (=1), and drug offense (=1), where other offense is the reference category. The other legal control variable is prior confinement, which measures whether the individual had spent time in the past in confinement, either prison

or jail[2]. This is also dummy coded where no prior time in confinement is the reference group, coded as 0, and prior time in confinement is coded as 1. Both legal controls are important variables to include because they have been shown to be some of the most impactful factors in sentencing outcomes (Ulmer, 1997).

County Level Independent Variables

The study uses multiple county level variables to analyze the impact that contextual level variables have on sentencing outcomes. The county level data was collected from the ACS from the year 2015, with 5 year estimates. The first county level variable is the racial/ethnic composition of the county. This variable aligns with racial threat theory and is measured by the percentage of racial or ethnic minorities within a county, which is consistent with prior research (Britt, 2000; Ulmer & Johnson, 2004). This contextual factor is measured through two continuous variables, the percentage of the population that is black and the percentage of the population that is Hispanic/Latino within the county. These variables are included separately, instead of as one minority measurement, in order to test the impact that these factors have independently, which has been utilized in prior research (Sampson & Graif, 2009; Steffensmeier & Demuth, 2000; Bontrager, Bales, & Chiricos, 2005).

The other main contextual level variable is concentrated disadvantage, where a factor analysis was conducted to measure it. Six indicator variables were tried, but only

[2] Within the dataset, 6.4% of the variable prior confinement was missing and resulted in 1,284 individuals being removed from the sample via listwise deletion. Additionally, a majority (88%) of the missing prior confinement information was from the state of New Mexico, which resulted in over a third (36%) of their total individuals being removed from the sample. This is a limitation within the study and will be taken into consideration when interpreting the results.

four variables loaded to measure concentrated disadvantage: the percent below the poverty line, percent female headed households, percent unemployed, and percent black[3]. The factor had an eigenvalue of 2.675, explained 66.9% of the variance, and the factor loadings are reported on below in Table 1. These measures used for concentrated disadvantage are consistent with prior studies and have shown that in higher rates, they can increase the level of perceived social threat (Sampson, Raudenbush, & Earls, 1997; Sampson & Graif, 2009). Additionally, by including a greater number of variables within the concentrated disadvantage index, the study is able to more efficiently capture the impact that concentrated disadvantage has on sentencing outcomes. For this variable, the higher the value the greater the level of disadvantage within the county, which would suggest a greater level of social threat as well.

Residential stability is included as a control variable, which has been incorporated by past research and measures the stability of a county's population (Sampson, Raudenbush, & Earls, 1997). This variable is a factor score variable with an eigenvalue of 1.704, 85.2% explained variance, and two indicators: percentage of owner-occupied homes and percentage of individuals who have lived in the same home for five or more years (since 2010). Both variables had high factor loadings and are reported on in Table 1. Residential stability is a continuous variable and as the variable increases, so does the stability of the county's population. Theoretically, as it increases it also causes an increase in informal social control and a decrease in criminal behavior within the area (Sampson & Graif, 2009).

[3] Additional indicators that were tried but did not load onto the concentrated disadvantage factor were percent receiving public assistance and percent under age 18.

Table 1. *Factor Loadings for County Level Variables*

Variables	Factor Loadings
Concentrated Disadvantage	
% Below Poverty Line	0.668
% Female Headed Households	0.826
% Unemployed	0.539
% Black	0.643
Residential Stability	
% Owner Occupied Housing	0.852
% Same House for 5 Years (Since 2010)	0.852

An additional control variable is the population within the county. This variable is continuous and due to it being highly positively skewed, the logarithm was taken of the variable in order to normalize the distribution. Population is included as a control because past research has suggested larger populations have the potential to increase the pressure put on the community to use harsher control mechanisms when crime is committed (Eitle, D'Alessio, & Stolzenberg, 2002).

The analysis also includes indicator variables for states, which serves two functions. First, they control for the variation in sentence length that is occurring between states and they also are used to distinguish the types of sentencing guidelines, determinate or indeterminate, that each states has. States that have determinate (D) sentencing guidelines allow for little judicial discretion when individuals are given sentences through fixed guidelines; while indeterminate (I) sentencing guidelines give judges a wide array of discretion when it comes to both the sentence type and length. Both Arizona and New Mexico are determinate sentencing states and Texas and Oklahoma are indeterminate sentencing states (Lawrence, 2015). Therefore, it is important to incorporate this variable to control for both functions, which will be measured by the

state that the counties reside in. Three dummy variables are used to indicate counties within Arizona (D), New Mexico (D), and Oklahoma (I), which are all coded as 1; and Texas (I) is the reference state and coded as 0.

Univariate Analysis

Below Table 2 illustrates the univariate analysis and the descriptive statistics for all of the variables within the study. Prior to sentence length being transformed, the average length was 55.7 months with a standard deviation of 52.2. Once the logarithm was taken, the average sentence length became 1.57 with a standard deviation of 0.40. For the individual level independent variables, just over half of the sample was white (51.5%) with Hispanic/Latino being the second biggest population (24.2%), then followed by black (15.5%), and other (8.8%). A majority of the sample was made up of male individuals (83.2%) and the average age of the individual when they were sentenced to prison was 34.8 years old. Just over a third (35.9%) of the offense types were classified as other offense, with drug offenses being the second most common (30.7%), followed by violent offense (16.9%), and then property offense (16.6%). Nearly all individuals had spent prior time in confinement as well (95%).

Table 2. *Descriptive Statistics for All Variables*

	Mean / %	S.D.	Minimum Value	Maximum Value
Dependent Variable				
Sentence Length (log)	1.57	0.40	0	2.67
Independent Variables – Individual Level				
Race/Ethnicity				
White*	51.5%	-	-	-
Black	15.5%	-	-	-
Hispanic/Latino	24.2%	-	-	-
Other	8.8%	-	-	-
Sex				
Male	83.2%	-	-	-
Female*	16.8%	-	-	-
Age	34.8	10.4	15.9	83.9
Primary Offense Type				
Violent	16.9%	-	-	-
Property	16.6%	-	-	-
Drug	30.7%	-	-	-
Other*	35.9%	-	-	-
Prior Confinement				
Yes	95%	-	-	-
No*	5%	-	-	-
Independent Variables – County Level				
Concentrated Disadvantage	-0.055	0.618	-1.42	1.81
Percent Black	4.5	5.43	0	33.3
Percent Hispanic/Latino	25.6	21.6	2.41	95.3
Residential Stability	-0.348	0.996	-4.08	2.57
Population (log)	4.6	0.67	3.31	6.64
State				
Arizona (D)	6.9%	-	-	-
New Mexico (D)	14.8%	-	-	-
Oklahoma (I)	35.6%	-	-	-
Texas (I)*	42.6%	-	-	-
Individual Level N: 18,807				
County Level N: 216				

Note. * Indicates reference category.

For the county level variables, the mean for concentrated disadvantage was negative at -0.055, which shows that the average county has a lower level of

disadvantage. The average county also had a black composition of 4.5% and a Hispanic/Latino composition of 25.6%. Residential stability had a negative mean of -0.348, which shows that the average county had a lower level of residential stability. Before the population of the county was transformed, the average population size was 166,163 with a standard deviation of 489,661, which shows the positive skew within the data. After the logarithm was taken, the mean was then 4.6. The final variable, whether the county lies within a state that has determinate or indeterminate guidelines, shows that Texas (I) made up a majority (42.6%) of the counties at the second level and Oklahoma (I) made up a third (35.6%) of the counties. This was then followed by New Mexico (D) making up 14.8%, and Arizona (D) making up under 6.9% of counties within the sample.

Bivariate Analysis

The next analysis ran was bivariate statistics in order to test the initial relationship that each independent variable had with the dependent variable. At the individual level, all independent variables' relationships were tested with the dependent variable of sentence length. At the county level, all independent variables' relationships were tested with the average sentence length for the county, due to the data being aggregated at the county level.

Individual Level Relationships

At the individual level, to test the initial relationship that categorical dummy coded independent variables had with sentence length, which is continuous, analysis of variance was used. Independent samples t-test was used to test the relationship that the dichotomous variables had with the dependent variable and a correlation was used to test the relationship that the continuous variable had with the dependent variable.

For the first individual level variable, an analysis of variance testing the relationship between the individual's race/ethnicity and sentence length found that individuals of different races/ethnicities received significantly different sentence lengths. A post hoc test, which is reported in Table 3, shows the differences between the individual's race/ethnicity and their sentencing outcome, where white is used as the reference group. The analysis shows that black individuals received significantly longer sentence lengths compared to white individuals, but Hispanic/Latino individuals received significantly shorter sentence lengths compared to white individuals. The post hoc test also reported that there was no significant difference between the sentence lengths that individuals of other races/ethnicities were given compared to white individuals. Additionally, further analysis showed that black individuals were given the longest sentence lengths, which was significant compared to all other races/ethnicities, and Hispanic/Latino individuals were given the shortest sentence lengths, which was also significant compared to all other races.

Table 3**.** *ANOVA Comparison of Race/Ethnicity & Sentence Length*

Race/Ethnicity	Mean Difference
Black	-0.576***
Hispanic/Latino	0.0878***
Other	0.0135

Note. White is the reference category. (*** $p < 0.001$).

Initial analysis that tested the relationship between males and female's sentence lengths used an independent samples t-test. This analysis found that males and females received significantly different sentence lengths ($p < 0.001$). The relationship between the age of the individual upon prison admission and sentence length was tested through a bivariate correlation due to the continuous nature of both variables. The correlation

showed there was a positive and significant relationship between age and sentence length, but the relationship was weak (0.097; $p < 0.01$). This relationship shows that as the individual got older, their sentence length got longer.

An additional analysis of variance was used to look at the initial relationship between the primary offense type and sentence length, which is reported on in Table 4. The analysis found that each offense type received significantly different sentence lengths. Within the analysis, those who committed another offense type were the reference group, which was found to be the offense type to receive the shortest sentence lengths. Individuals who committed violent, property, and drug offenses all received significantly longer sentence lengths. Individuals who committed violent offenses were given significantly longer sentence lengths compared to all other offense types, followed by individuals who committed property offenses who were given the second longest sentence lengths, and then individuals who committed drug offenses were given the third longest sentence lengths.

Table 4**.** *ANOVA Comparison of Primary Offense Type & Sentence Length*

Primary Offense Type	Mean Difference
Violent	-1.702***
Property	-0.0822***
Drug	-0.0261***

Note. Other offense is the reference category. (*** $p < 0.001$).

The last individual level independent variable, prior time in confinement, was analyzed using an independent samples t-test, due to the dichotomous nature of the variable. Results showed that individuals who had spent prior time in confinement received significantly different sentence lengths compared to those who had not ($p < 0.001$).

County Level Relationships

At the county level, all of the independent variables were tested for an initial relationship with the average sentence length for the county, due to the sentence length for the individual being reported with the individual level data and then aggregated at the county level. Due to the continuous nature of the dependent variable and a majority of the county level variables, bivariate correlations were used to test the initial relationship that each variable had with the average county sentence length. The last variable, the state the county was in, was categorical; therefore, an analysis of variance was used to test the relationship it had with the dependent variable.

A correlation matrix is shown below in Table 5, which tests the initial bivariate correlations between the independent variables and the dependent variable, and also tests for multicollinearity between all of the county level independent variables. First looking at the relationship between the independent and dependent variables, the results show that only the percentage of the population that was Hispanic/Latino within the county had a significant relationship with sentence length. The relationship was weak in strength and negative, which means that as the percentage Hispanic/Latino decreased within the county, the average sentence length increased. No other county level variables had an initial significant relationship with sentence length.

Table 5. *Bivariate Correlation Matrix for County Level Variables & Sentence Length*

County Level Independent Variable	1	2	3	4	5	6
1) Sentence Length (log)	1	-	-	-	-	-
2) Concentrated Disadvantage	-0.98	1	-	-	-	-
3) Percent Black	0.07	0.28**	1	-	-	-
4) Percent Hispanic/Latino	-0.22**	0.22**	-0.16*	1	-	-
5) Residential Stability	0.01	-0.16*	-0.38*	-0.10	1	-
6) Population (log)	0.004	0.001	0.38**	0.04	-0.59**	1

Note. (* $p < 0.05$; ** $p < 0.01$).

Additionally, due to the continuous nature of a majority of the county level independent variables, Table 5 also reports the bivariate correlations between all of the independent variables to test for multicollinearity. A majority of the independent variables are significantly correlated, but mainly have weak relationship strengths, besides the two control variables of residential stability and population. Although there are significant relationships between the independent variables, tolerance statistics (not shown) found multicollinearity is not a problem between the variables and within the analysis; thus, the analysis continued.

For the last county level independent variable, the state and its sentencing guidelines, an analysis of variance was used to test the initial relationship they had with sentence lengths. The test was found to be significant and the post hoc is reported on below in Table 6. The analysis found counties within two states had significantly different sentence lengths compared to counties in Texas. Counties within Arizona (D), that allow for little judicial discretion, gave out significantly shorter sentence lengths compared to counties in Texas (I), which allow for a wider array of judicial discretion. Counties in New Mexico (D) did not give out significantly different sentence lengths compared to counties in Texas (I), although there sentencing guidelines allow for different levels of discretion[4]. For the last state of Oklahoma (I), the analysis showed that individuals within its counties received significantly longer sentence lengths compared to those sentenced in counties within Texas (I), where both of these states are indeterminate

[4] This should be interpreted with caution due to over a third of individuals from counties within New Mexico being removed due to missing data (see Note 2).

and allow for more judicial discretion. Ultimately, counties within Oklahoma (I) gave out the longest average sentence lengths, followed by Texas (I), New Mexico (D), and then Arizona (D).

Table 6. *ANOVA Comparisons of States & Sentence Length*

State & Sentencing Guidelines	Mean Difference
Arizona (D)	1.471*
New Mexico (D)	0.209
Oklahoma (I)	-1.248*

Note. Texas (I) is the reference category. (* $p < 0.05$).

Curvilinear Relationships

Past research has suggested that there is the potential for a curvilinear relationship between some of the county level variables and the dependent variable. Specifically, Chen (2013) stated the relationship between minority composition within the county and sentence length may be curvilinear, or an inverse-U shape, due to varying levels of social threat being tied to varying percentages of minority compositions. Blalock (1967) suggested that in areas that have low minority populations, the white majority feels minimal threat posed to their resources. But as the population increases so does the perceived threat; thus, there is an increase in the social control response as the population increases. Some scholars believe there is a possible threshold and when the minority population reaches the threshold and become the majority within the area, the threat declines because now the minorities have a relatively large control over social and economic resources (Chen, 2013; Britt, 2000).

This initial relationship was analyzed through bivariate statistics for both racial/ethnic threat variables, and for concentrated disadvantage as well, in order to determine if the relationship was non-linear. Bivariate scatterplots were created to

determine whether each variable's relationship with the dependent variable of average sentence length was curvilinear. Due to this analysis being at the second level, the sentence length was the average for the county.

All of the scatterplots showed normal linear relationships. The relationship between sentence length and percent black was linear and positive, showing that as the percent black increased, so did the average sentence length for the county. The relationship between percent Hispanic/Latino and average sentence length for the county was linear and negative, showing that as the population decreased, the sentence length increased. Additionally, concentrated disadvantage was tested and the relationship was also shown to be linear and negative, showing that as the level of disadvantage decreased, sentence length increased. These findings of linear relationship are consistent with prior research (Chen, 2013). Ultimately, these results show a lack of support for the curvilinear aspect of racial and ethnic threat that has been theorized; thus, this non-linear relationship will not be explore further.

Analytical Strategy

Due to the multilevel nature of the hypotheses and the data, the main analysis used was Hierarchical Linear Modeling. The data consists of individuals at the first level who are nested within various counties at the second level and HLM allows for both the effects of the individual level variables and the contextual level variables to be analyzed to see how they impact sentence length (Raudenbush & Bryk, 2002). Additionally, HLM allows for the cross level interaction between individual level and county level characteristics to be tested, while also analyzing how the effects of individual level characteristics vary across the different variables across counties; ultimately, making it

the ideal statistical method for this research and for the hypotheses (Bontrager, Bales, Chiricos, 2005).

CHAPTER IV

Results

Below, Table 7 reports the HLM 7 outputs of both the base level model and the full model. Model 1 shows the results of the unconditional base model, which determined that there is a significant difference in sentence lengths across the counties. This supports the continuation of the multilevel analysis. Model 2 reports the full model of both individual level and county level variables' impact on sentence length and the model is shown to be a significant predictor of sentence length variation.

Individual Level Results

Model 2 within Table 7 illustrates that all but one individual level independent variables were significantly associated with the individual's sentence length when controlling for all other variables. For the extralegal variables, both black and Hispanic/Latino individuals were given significantly longer sentence lengths compared to white individuals, but individuals of other races/ethnicities were given significantly shorter sentence lengths compared to white individuals. The results also show that males were given significantly longer sentence lengths compared to females and older individuals were given significantly longer sentence lengths compared to younger individuals.

In regard to the legal variables included, the analysis shows for offense type, those who committed a violent or property offense were given significantly longer sentence lengths compared to those who committed another offense type. Individuals who committed a drug offense were found to have no significant difference in sentence length compared those who committed another offense type. Additionally, those who had

spent prior time in confinement were given significantly longer sentences compared to those who had not.

Table 7. *Multilevel Model of Individual Level & County Level Variables' Impact on Sentence Length*

	Model 1 (base)			Model 2 (full)		
Fixed Effect	*b*	SE	*t*-ratio	*b*	SE	*t*-ratio
Level 1 – Individual Level						
Intercept	1.651***	0.012	133.3	1.131***	0.051	22.36
Race/Ethnicity						
Black				0.037*	0.016	2.307
Hispanic/Latino				0.042**	0.014	2.884
Other				-0.030***	0.008	-4.398
Sex						
Male				0.087***	0.017	5.05
Age				0.004***	0.0004	9.853
Primary Offense Type						
Violent				0.163***	0.028	5.813
Property				0.086***	0.025	3.361
Drug				0.016	0.016	0.95
Prior Confinement						
Yes				0.400***	0.045	8.795
Level 2 – County Level						
Concentrated Disadvantage				0.004	0.014	.0275
Percent Black				-0.003	0.002	-1.391
Percent Hispanic/Latino				-0.001*	0.0005	-2.462
Residential Stability				-0.001	0.01	-0.103
Population (log)				0.015	0.015	1.014
State						
Arizona (D)				-0.272***	0.028	-9.655
New Mexico (D)				-0.006	0.03	-0.218
Oklahoma (I)				0.109***	0.028	3.94
Random Effects	Variance	df	χ^2	Variance	df	χ^2
	0.017***	215	3596.4	0.003***	207	535.79

Note. (*p < 0.05; **p < 0.01; ***p < 0.001).

County Level Results

Table 7 shows within the full model that only a few of the extralegal county level variables were significantly associated with sentence length. The level of concentrated

disadvantage within the individual's county was not a significant predictor of sentence lengths and neither was the percentage of black residents within the county. The other main county level independent variable, percent Hispanic/Latino, was found to be significantly associated with sentence length and have a negative relationship. This shows that as the percentage of Hispanic/Latino residents increase within the county, sentence lengths decreased.

Two of the control variables, residential stability and population, were not significantly associated with sentence length. For the last control variable on whether the county was within a state that has determinate or indeterminate sentencing guidelines, two of the three states were found to give significantly different sentence lengths compared to Texas. Sentences given within the counties of Arizona, which is a determinate sentencing state and allows for less judicial discretion within sentencing, were significantly shorter compared to the sentences given within the counties of Texas, which is an indeterminate sentencing state and allows for more judicial discretion within sentencing. Sentences given within the counties of New Mexico, another determinate sentencing state, were not significantly different compared to the sentence lengths given within counties of the indeterminate state of Texas. It is important to address that this relationship not being significant could have been impacted by the removal of just over a third of the individuals from New Mexico[5]. Although this relationship is not significant, this specific result should be interpreted with caution because it could have been impacted by the data removal. Oklahoma, the last state included, is also an indeterminate

[5] They were removed due to the dataset having missing data on whether the individual had spent prior time in confinement, where the missing data was concentrated within the state of New Mexico (see Note 2).

sentencing state that allows more judicial discretion. Its counties were found to give out sentence lengths that were significantly longer than the sentences given within counties in Texas.

Cross Level Interaction Results

HLM also allows for the interactional effect of multilevel variables to be tested in relation to sentence length, which was an additional focus of the study. Table 8, reported below, shows the results of the interactions that the individual's race/ethnicity has with their county characteristics of concentrated disadvantage and racial/ethnic composition, and how that interaction impacts their sentence length. The results showed only one interaction between individual level and county level variables significantly impacted sentencing outcomes at the 0.1 level. The interaction shows that concentrated disadvantage has a positive impact on the effect of being black, in relation to sentence length. This shows that the difference between sentence lengths between black and white individuals is greater in counties that have higher levels of concentrated disadvantage, where black individuals receive significantly longer sentences in more disadvantaged counties. This was the only multilevel interaction found to significantly impact sentence length.

Table 8. *Cross Level Interactional Impact on Sentence Length: Interaction between Individual Race/Ethnicity & County Factors*

Fixed Effect	*b*	SE	*t*-ratio
Cross Level Interaction			
Black			
Intercept	0.047	0.049	0.967
Percent Black	-0.003	0.003	-0.952
Percent Hispanic/Latino	0.001	0.001	0.448
Concentrated Disadvantage	$0.047^{\dagger}$	0.0256	1.831
Hispanic/Latino			
Intercept	-0.68	0.06	-1.127
Percent Black	0.001	0.004	0.261
Percent Hispanic/Latino	0.001	0.001	1.209
Concentrated Disadvantage	0.005	0.027	0.174
Other Race/Ethnicity			
Intercept	-0.096	0.133	-0.722
Percent Black	-0.006	0.004	-1.419
Percent Hispanic/Latino	-0.001	0.001	-0.682
Concentrated Disadvantage	0.032	0.02	1.291
Random Effects	Variance	df	χ^2
	0.002***	207	464.67

Note. (†p < 0.10).

CHAPTER V

Discussion & Conclusion

Ultimately, social threat focuses on the idea that the majority can feel threatened by others who they perceive to be a danger towards their control and towards both the access and use of economic and social resources (Brown & Warner, 1992). This social threat felt from certain individuals or populations can be a result of their individual race, higher rates of minority composition within their county, or higher levels of concentrated disadvantage within their county. This increased perceived threat is then responded to with harsher forms of social control, which can be through the criminal justice system. It is then suggested that judges include the threat posed by individuals, based on both individual and county level characteristics, into their sentencing decision. This results in "threatening" individuals receiving harsher sentences, which is the judge's way to protect communities and prevent reoffending.

The study tested this idea of social threat and overall found mixed results. Although the multilevel analysis showed that both individual level and county level factors significantly impacted sentence lengths, the results did not offer support for all of the hypotheses that focused on various types of social threat at both the individual and county level. More support for social threat was found at the individual level compared to the county level.

Social Threat at the Individual Level

At the individual level, social threat is tied into the threat perceived based off of the individual's race or ethnicity, which is a part of racial threat theory or ethnic threat. An increase in perceived threat from racial/ethnic minorities would result in them

receiving significantly longer sentences. The results found partial support for the first hypothesis in that there was an increased level of social threat felt by an individual's race or ethnicity, which significantly impacted black and Hispanic/Latinos' sentencing outcomes. The analysis showed that black and Hispanic/Latino individuals received significantly longer sentence lengths compared to white individuals, which is consistent with prior research and can be explained by the threat associated with their race/ethnicity. This suggests that black and Hispanic/Latino individuals are being stereotyped based off of their minority status, which results in them being perceived as more dangerous to their community and more likely to reoffend. This increased perceived threat is ultimately incorporated into the sentencing decision as an extralegal factor and results in unfavorable sentencing outcomes in the form of longer sentences. Thus, this finding offers support for racial threat theory at the individual level.

Individuals of other races/ethnicities were found to have significantly shorter sentence lengths compared to white individuals, which does not offer support for the individual level minority status hypothesis. This group made up just under 10% of the overall sample, which shows that individuals of races/ethnicities other than white, black, and Hispanic/Latino are not as commonly involved in the system and do not make up a large overall population of individuals sentenced to prison. Due to them not frequently being in the system and their racial/ethnic group not composing a large population within society, those of other races/ethnicities may not be perceived to be nearly as threatening and there is little concern associated with them being a danger to their community. Ultimately, their sentencing outcomes are not impacted. This can explain why individuals

of other race/ethnicities are not viewed as threatening and receive significantly shorter sentence lengths compared to other individuals.

Social Threat at the County Level

At the contextual level, social threat is tied into the racial or ethnic composition of the county and the level of concentrated disadvantage within the county. These three factors can increase the level of perceived threat and influence judges to sentence individuals who come from counties with high rates of one or more of these factors harsher. While a majority of studies have found support for one or more contextual level factors significantly impacting sentencing outcomes, this study did not find support for any of them impacting sentence lengths, at least in regard to support of the various threat hypotheses.

Hypothesis two focused on how the threat associated with the county's level of concentrated disadvantage would impact the individual's sentence length, which did not find support. This illustrated that sentencing decisions are not being influence by the social threat that is associated with the level of disadvantage within one's county and the level of threat that an individual poses to their community or their likelihood of reoffending is not being based on the level of disadvantage within their county.

Hypotheses three and four focus on the diffused effects of racial/ethnic threat that are associated with both the black and Hispanic/Latino composition within the county. Overall, there was no support for either hypothesis and no support for the idea of diffused effects of racial/ethnic threat because neither were associated with significantly longer sentence lengths. In regard to racial/ethnic threat, this shows that there is not an increased threat felt in counties that have higher black or Hispanic/Latino compositions. This also

suggests that minority composition and the associated threat are not being incorporated into sentencing decisions. Additionally, this finding also illustrates the lack of support for diffused effects of threat, where greater minority compositions were not found to increase the threat at the county level and did not result in longer sentence lengths individuals of any race.

More specifically for hypothesis three, there was no support for the idea that there is an increased perceived threat associated with individuals from areas that have a higher composition of black residents. This finding shows a lack of support for racial threat theory and suggests that stronger forms of social control, through longer sentences, is not being used in areas where the black composition is greater. Ultimately, showing that individuals from counties with a higher black composition as not being viewed as more threatening.

Although there was no support for hypothesis four in that individual within counties with higher levels of Hispanic/Latino residents receive longer sentence lengths, there was still a significant, but negative relationship. This shows that counties with a higher Hispanic/Latino population overall gave out shorter sentence lengths, which is the opposite effect that ethnic threat proposes. This result is somewhat puzzling and suggests that there are lower levels of perceived threat from offenders when they reside in counties that have a higher Hispanic/Latino composition, there are lower levels of social threat, and there are lower levels of formal social control within these counties.

This outcome could be explained by the focus on the southwest region. Within the study, the counties in the southwest region had a larger average Hispanic/Latino population composition compared to the average of counties within the entire United

States, 32.8% to 18.3% respectively (Census, 2010). For this reason, the southwest region could not as commonly associate increased threat with an increased Hispanic/Latino population because it is more normalized in this area due to the larger percentage of the population that is Hispanic/Latino within this region. This could explain why this study did not find support for Hispanic/Latino composition impacting sentencing outcomes, when other studies done in different states or regions have found a significant relationship.

Multilevel Interactional Social Threat

The idea of social threat can also include the duality of individual level and county level factors, which together, interact and result in longer sentence lengths. This is when the threat associated with an individual's race or ethnicity, is augmented by the threat posed within their county due to minority composition or concentrated disadvantage. The last two hypotheses focused on this interactional social threat and the multilevel model allows for the analysis of this interaction.

Hypothesis five found partial support in that black individuals who resided in counties with higher levels of concentrated disadvantage received significantly longer sentence lengths (at the 0.1 level). This shows the threat that is perceived by a black individual is increased when they come from a county with a higher level of concentrated disadvantage, which also increases the perceived threat. This dual effect of threat results in black individuals receiving significantly longer sentences in more disadvantaged counties.

Although at the county level concentrated disadvantage was found to not be significant, this cross-level interaction shows that disadvantage has a unique interaction

occurring with black individuals, showing the threat associated with being black is amplified by the threat associated with living in a disadvantaged area. Thus, the threat felt by both being a black individual and by living in a disadvantaged area is incorporated into the offender's sentencing outcome and results in significantly longer sentences as a form of formal social control. This increased social control can be used as a way of better protecting the communities and preventing reoffending from disadvantaged black individuals who are viewed as an increased threat.

This was the only interaction found within the analysis between the individual's race/ethnicity and their county's characteristics, to significantly impact sentence length. Additional interactions were tested to analyze hypothesis six and the targeted effects of racial/ethnic threat, but did not find support for the dual social threat based on individual race/ethnicity and county minority composition resulting in longer sentences. There was no dual effect of threat felt by a black or Hispanic/Latino individual residing in a county with a higher minority composition. Ultimately, black and Hispanic/Latino individuals are not given harsher sentences based on the county composition that is black or Hispanic/Latino.

These results show that there is not an increased perceived threat posed by black or Hispanic/Latino individuals who come from counties with higher minority compositions, which is inconsistent with prior research. This finding illustrates that the threat felt by the individual's race or ethnicity, where black and Hispanic/Latino individuals are sentenced harsher, is not augmented when they resides in a county with a higher black or Hispanic/Latino composition. Racial/ethnic stereotypes are being incorporated at the individual level to assess the threat posed by the offender, due to

black and Hispanic/Latino individuals receiving longer sentences, but at the county level racial/ethnic stereotypes associated with minority groups and their population size are not being incorporated.

Overall, there is no additional threat posed by the racial/ethnic composition within the county and this result shows that county level variables, especially minority compositions, do not impact the level of perceived threat individuals pose. This suggests that county level characteristics do not commonly impact an individual's sentence length and the threat that is felt by the individual's race or ethnicity is not commonly augmented by the threat that is associated with county level factors. Although one interaction between individual level and county level factors was found to have a significant relationship with sentence length at the 0.1 level, it is reasonable to conclude that county level factors do not have much of an influence on the relationship between an individual's race/ethnicity and their sentence length. This is in despite the finding that within disadvantaged counties, black individuals tend to receive harsher sentences.

Determinate & Indeterminate Sentencing Counties

The incorporation of determinate and indeterminate sentencing states was not a major focus within the study, but the findings are worth addressing as they do make the study unique. It was theoretically sound to find counties within the determinate state of Arizona, which allows less judicial discretion in sentencing, had significantly shorter sentence lengths compared to counties in Texas. Within determinate sentencing guidelines, judges must follow the set guidelines and they have less room to incorporate outside extralegal factors, such as individual or county level characteristics that increase perceived social threat. This is in comparison to counties in Texas with indeterminate

sentencing guidelines where judges are given a wider array of discretion to give out sentences based on a range of sentence lengths, where they have more room to incorporate individual and county characteristics that they may perceive as threatening, to ultimately impact the sentence length they give.

As the relationship showed, counties in New Mexico with determinate sentencing guidelines, also gave shorter sentence lengths compared to counties in Texas, but the relationship was not significant. This finding is interesting because it would be understandable if counties within New Mexico also gave significantly shorter sentence lengths compared to counties in Texas, due to the difference in discretion given to judges and their ability to incorporate a variety of different forms of social threat into their sentencing decision. It is important to highlight that this finding could be a result of a portion of the data from New Mexico being removed due to missing data (see Note 2). For that reason, this finding should be interpreted with caution.

The findings also showed that counties within Oklahoma gave out significantly longer sentence lengths compared to Texas. This is an interesting finding due to all of the counties being within states that both have indeterminate sentencing guidelines that allow their judges a wide array of discretion for their sentencing decision. There is a potential that judges within counties in Oklahoma are using their discretion and incorporating more extralegal factors and the associated social threat into their sentencing decision. They could be assessing the threat associated with the individual's race/ethnicity and incorporating it into their sentencing decision more so than judges within counties in Texas, which is resulting in significantly longer sentence lengths for individuals sentenced in counties in Oklahoma.

Clearly, this is just speculation due to this new emerging focus on determinate versus indeterminate sentencing guidelines. It is unclear truly why counties within two indeterminate sentencing states are giving out significantly different sentence lengths. This topic lacks research, which results in the true nature of this relationship to be unclear and warrants further exploration.

Limitations

One limitation of the study is that the first aspect within the sentencing decision (in/out of prison) is not tested, due to it not being available within the dataset. The NCRP only records information of individuals who have already been sent to prison and the sentence length they receive. Some studies have found that there is commonly racial disparities occurring on who is and who is not sentenced to prison, compared to community supervision (Steffensmeier & Demuth, 2000), but this study was unable to capture those disparities. Although this aspect was not tested and could be seen as a limitation, the study was able to capture the differences between determinate and indeterminate sentencing states, which can only be analyzed when the dependent variable is sentence length.

An additional limitation was over a third of New Mexico's sample size was removed from the study. This was due to missing data on whether the individual had spent prior time in confinement, which is an important legal control variable that needed to be included. Although a third was removed, New Mexico still had a large sample size (n = 2,006), but the removal of some of the data has the potential to impact the findings for the state. Specifically on whether the counties within New Mexico truly did have

significantly different sentence lengths than counties within Texas. Thus, those results need to be interpreted cautiously.

One last area that is questionable and deserves attention is the lack of support for nearly all of the interaction hypotheses, except for black individuals in higher levels of concentrated disadvantage receiving significantly longer sentence lengths. This result is fairly inconsistent with prior research. It is plausible that the unit of analysis at the second level of the county, is too large and unable to capture the true occurrences that are happening at a smaller level, such as a census tract. Contextual factors may play a factor in a judge's sentencing decision and influence their perceived social threat, but measuring these factors at the county level could be too broad and the results are not shown for that reason.

Conclusion

Ultimately, the study found mixed results of whether extralegal case factors are being incorporated into sentencing decisions in order to assess the level of social threat that individuals pose. The multilevel model allowed for individual level, county level, and interactional threat to be tested in relation to sentence length. Nearly all individual level variables were found to support the idea of social threat, but no county level variables were found to support the idea of social threat and significantly impact sentence lengths. Additionally, there was one interactional relationship that did offer support for the idea of social threat.

Although the study did not explicitly test focal concerns perspective, the study did find support for its premise in that multiple individual level extralegal factors were found to significantly impact sentence lengths. This suggests that although judges are taking

into account the legal characteristics of the case, they are also assessing extralegal characteristics, such as the threat associated with the individual's race/ethnicity. These factors are then incorporated into their sentencing decision and evaluated in order to determine how blameworthy they are, the need for community protection, and the practical implications and constraints of their decision. If the individual poses a greater threat, it results in them receiving a significantly longer sentence length. This shows that individual level characteristics are the factors that are most commonly being considered when the level of perceived threat is being determined and they are most impactful in influencing sentence lengths. Additionally, the finding that both black and Hispanic/Latino individuals received significantly longer sentence lengths offers support for both racial threat and ethnic threat at the individual level.

The lack of support for county level variables positively and significantly impacting sentence lengths shows that sentencing decisions are not highly influenced by what is occurring at the county level. It shows that the county characteristics do not commonly impact the individual's level of perceived threat or their sentencing outcome, whether it be minority composition or the level of disadvantage within their county, resulting in no support for the idea of social threat. The study found county level characteristics to be rather mundane in this context and shows there is no support for racial threat, ethnic threat, and the threat associated with concentrated disadvantage at the county level. Additionally, the results show that sentencing outcomes are not commonly impacted by the dual threat that both individual level and county level factors present together, despite the finding in disadvantaged counties, where black individuals tend to

receive harsher sentences due to the dual threat. The threat that is felt by a black individual is heightened when they are from a county with a higher level of disadvantage.

These mixed results for racial/ethnic threat and the threat associated with concentrated disadvantage show the importance of continued research within this area. As noted early, the mixed results could be due to the regional focus or due to the broad unit of analysis of the county. As this study has helped to answer questions and address unexplored areas within multilevel sentencing research, such as the inclusion of the determinate and indeterminate sentencing guidelines to compare counties, it has also raised other questions.

Future research should continue to explore the relationship that is occurring being Hispanic/Latino composition and sentencing outcomes, due to the unique finding of a negative relationship, in order to understand why this relationship is negative. Qualitative research that focused specifically on sentencing disparities in the southwest region would also be beneficial in addressing some of the study's uncertainties. Additionally, due to many contextual level variables not being found significant, future research should continue to look at the interactions between individual and contextual level variables, especially at smaller units of analysis, to see how they impact sentencing outcomes.

As the explanation for the difference between the counties within two indeterminate sentencing states, Oklahoma and Texas, giving out significantly different sentence lengths is just speculation, this topic also deserves further exploration. No prior research has included this variable within this context; therefore, more research is needed to better understand the relationship occurring between determinate and indeterminate sentencing states. Qualitative research that also seeks to compare determinate and

indeterminate sentencing guidelines and whether judges incorporate threat differently would also be very beneficial and help explain the results.

As this study has shown the need for continued research, it also shows the need for improved policies within criminal sentencing to reduce disparities. Individual factors were found to be the most impactful in influencing sentencing outcomes, which shows that policies should focus on minimizing sentencing disparities that are occurring based off of individual characteristics. Additionally, this study also shows that it is important that policies are specific to states or regions. While this study found that contextual factors have a minimal influence on sentencing outcomes, other studies that focused on other regions and states did find that county and contextual level factors do significantly impact sentencing outcomes. Thus, for policies to be effective across the nation they need to address the specific individual or contextual level factors that research has shown to impact sentencing disparities within that specific area, state, or region.

In the end, this study contributes to the body of knowledge and helps inform policy implications, while also raising additional questions that future research must address. While the relationship between social threat and sentencing outcomes has been explored by many researchers, the results are still mixed. More research is needed to determine whether sentencing outcomes truly are impacted by the level of threat posed at both the individual level and contextual level, so court officials and policy makers are aware of the disparities occurring within the system and they can be better informed on how to minimize unwarranted sentencing disparities.

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Vita

EDUCATION

2018 to Present – MA in Criminal Justice and Criminology (expected 2020)
Sam Houston State University, Huntsville, TX
Thesis: Sentencing Disparities based on County Level Disadvantage
Chair: Dr. Yan Zhang

2014 to 2018 – BA in Sociology and BA in Criminal Justice
Eastern Washington University, Cheney, WA (Summa Cum Laude)
Minor in Psychology & Certificate in Geographical Information Systems (GIS)

RESEARCH EXPERIENCE

2018 to Present – Graduate Research Assistant
Sam Houston State University, Huntsville, TX
Focus: Legal Liability, Excessive Force, and Pretrial Detainees
Supervised by Dr. Michael Vaughn

2019 – Summer Research Fellowship
Sam Houston State University, Huntsville, TX
Project Name: Excessive Force against Pretrial Detainees in the U.S. District Courts
Supervised by Dr. Michael Vaughn

2019 – Research Assistant
Sam Houston State University, Huntsville, TX
Project Name: Disparate experiences and outcomes of Native American inmates
PI: Melinda Tasca. Funded by the College of Criminal Justice External Grant Development System (EGADS) Program. $12,639

PUBLICATIONS

Manuscripts in Progress

2019 – **Dietrich, S.L.,** & Vaughn, M.S. – Excessive Force against Pretrial Detainees: An Analysis of the U.S. Court of Appeals' Interpretations of *Kingsley v. Hendrickson.*

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CONFERENCE PRESENTATIONS

2019 – **Dietrich, S.L.,** & Vaughn, M.S. – Use of Video Footage in Use of Force Cases: Analyzing *Kingsley v. Hendrickson*
Presented at the meeting of the American Society of Criminology (ASC), held in San Francisco, CA.

2019 – **Dietrich, S.L.,** & Vaughn, M.S. – Excessive Force against Pretrial Detainees: An Analysis of the U.S. Court of Appeals' Interpretations of *Kingsley v. Hendrickson*
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CERTIFICATIONS

2018 – Geographical Information Systems Certified
ArcGIS by ESRI

PROFESSIONAL AFFILIATIONS

2019 to present – American Society of Criminology (ASC)

2018 to present – Academy of Criminal Justice Sciences (ACJS)

FIELD WORK EXPERIENCE

January to March 2018 – Intern at the Spokane County Juvenile Court
Worked with youth aged 12 to 18 on juvenile probation
Spokane, WA

VOLUNTEER EXPERIENCE & INTERNSHIPS

2015 to 2018 – PrimeTime Mentoring with Communities in Schools
Mentored at-risk youth
Cheney, WA

August 2016 – One Heart Source Volunteer
Worked in a school teaching math and reading skills
Hout Bay, South Africa

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HONORS AND AWARDS

2019 – O.B. Ellis-Gibbs Memorial Scholarship Recipient
Sam Houston State University, Huntsville, TX

2018 – Summa Cum Laude
Eastern Washington University, Cheney, WA

2017 to 2018 – Dean's Honor Student Award, Department of Criminal Justice
Eastern Washington University, Cheney, WA

2014 to 2018 – Washington Apple Education Foundation Scholarship Recipient
Wenatchee, WA

2014 to 2018 – Lanham Foundation Scholarship Recipient
Wenatchee, WA

2014 to 2018 – Dean's List
Eastern Washington University, Cheney, WA

2014 to 2016 – George Washington Foundation Scholarship Recipient
Yakima, WA

LEADERSHIP EXPERIENCE

2018 to present – Criminal Justice Graduate Student Organization Member
Sam Houston State University, Huntsville, TX

2017 to 2018 – Eagle Volunteer Leader, Office of Community Engagement
Eastern Washington University, Cheney, WA

2017 to 2018 – Criminal Justice Club Officer
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